

Senate Amendment 5331

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1 1 Amend Senate File 2337, as passed by the Senate, as
1 2 follows:
1 3 #1. Page 1, by inserting before line 1 the
1 4 following:
1 5 <Section 1. Section 87.4, Code 2007, is amended to
1 6 read as follows:
1 7 87.4 GROUP AND SELF=INSURED PLANS == TAX EXEMPTION
1 8 == PLAN APPROVAL.
1 9 For the purpose of complying with this chapter,
1 10 groups of employers by themselves or in an association
1 11 with any or all of their workers, may form insurance
1 12 associations as hereafter provided, subject to such
1 13 reasonable conditions and restrictions as may be fixed
1 14 by the insurance commissioner; and membership in such
1 15 mutual insurance organization as approved, together
1 16 with evidence of the payment of premiums due, shall be
1 17 evidence of compliance with this chapter.
1 18 A self-insurance association formed under this
1 19 section and an association comprised of cities or
1 20 counties, or both, or the association of county fairs
1 21 or a fair as defined in section 174.1, or community
1 22 colleges as defined in section 260C.2 or school
1 23 corporations, or both, or other political
1 24 subdivisions, which have entered into an agreement
1 25 under chapter 28E for the purpose of establishing a
1 26 self-insured program for the payment of workers'
1 27 compensation benefits are exempt from taxation under
1 28 section 432.1.
1 29 A plan shall be submitted to the commissioner of
1 30 insurance for review and approval prior to its
1 31 implementation. The commissioner shall adopt rules
1 32 for the review and approval of a self-insured group
1 33 plan provided under this section. The rules shall
1 34 include, but are not limited to, the following:
1 35 1. Procedures for submitting a plan for approval
1 36 including the establishment of a fee schedule to cover
1 37 the costs of conducting the review.
1 38 2. Establishment of minimum financial standards to
1 39 ensure the ability of the plan to adequately cover the
1 40 reasonably anticipated expenses.
1 41 A self-insured program for the payment of workers'
1 42 compensation benefits established by an association
1 43 comprised of cities or counties, or both, or the
1 44 association of county fairs or a fair as defined in
1 45 section 174.1, or community colleges, as defined in
1 46 section 260C.2, or other political subdivisions, which
1 47 have entered into an agreement under chapter 28E, is
1 48 not insurance, and is not subject to regulation under
1 49 chapters 505 through 523C. Membership in such an
1 50 association together with payment of premiums due
2 1 relieves the member from obtaining insurance as
2 2 required in section 87.1. Such an association is not
2 3 required to submit its plan or program to the
2 4 commissioner of insurance for review and approval
2 5 prior to its implementation and is not subject to
2 6 rules or rates adopted by the commissioner relating to
2 7 workers' compensation group self-insurance programs.
2 8 Such a program is deemed to be in compliance with this
2 9 chapter.
2 10 The workers' compensation premium written on a
2 11 municipality which is a member of an insurance pool
2 12 which provides workers' compensation insurance
2 13 coverage to a statewide group of municipalities, as
2 14 defined in section 670.1, shall not be considered in
2 15 the determination of any assessments levied pursuant
2 16 to an agreement established under section 515A.15.>
2 17 #2. Page 1, by striking lines 2 through 5 and
2 18 inserting the following:
2 19 <The association of Iowa fairs, or a fair, shall
2 20 have the power to join a local government risk pool as
2 21 provided in section 670.7.
2 22 Sec. 2. Section 670.7, Code 2007, is amended to
2 23 read as follows:
2 24 670.7 INSURANCE.

2 25 1. The governing body of a municipality may
2 26 purchase a policy of liability insurance insuring
2 27 against all or any part of liability which might be
2 28 incurred by the municipality or its officers,
2 29 employees, and agents under section 670.2 and section
2 30 670.8 and may similarly purchase insurance covering
2 31 torts specified in section 670.4. The governing body
2 32 of a municipality may adopt a self-insurance program,
2 33 including but not limited to the investigation and
2 34 defense of claims, the establishment of a reserve fund
2 35 for claims, the payment of claims, and the
2 36 administration and management of the self-insurance
2 37 program, to cover all or any part of the liability.
2 38 The governing body of a municipality may join and pay
2 39 funds into a local government risk pool to protect
2 40 itself against any or all liability. The governing
2 41 body of a municipality may enter into insurance
2 42 agreements obligating the municipality to make
2 43 payments beyond its current budget year to provide or
2 44 procure the policies of insurance, self-insurance
2 45 program, or local government risk pool. The premium
2 46 costs of the insurance, the costs of a self-insurance
2 47 program, the costs of a local government risk pool,
2 48 and the amounts payable under the insurance agreements
2 49 may be paid out of the general fund or any available
2 50 funds or may be levied in excess of any tax limitation
3 1 imposed by statute. However, for school districts,
3 2 the costs shall be included in the district management
3 3 levy as provided in section 296.7 if the district has
3 4 certified a district management levy. If the district
3 5 has not certified a district management levy, the cost
3 6 shall be paid from the general fund. Any independent
3 7 or autonomous board or commission in the municipality
3 8 having authority to disburse funds for a particular
3 9 municipal function without approval of the governing
3 10 body may similarly enter into insurance agreements,
3 11 procure liability insurance, adopt a self-insurance
3 12 program, or join a local government risk pool within
3 13 the field of its operation.

3 14 2. The procurement of this insurance constitutes a
3 15 waiver of the defense of governmental immunity as to
3 16 those exceptions listed in section 670.4 to the extent
3 17 stated in the policy but shall have no further effect
3 18 on the liability of the municipality beyond the scope
3 19 of this chapter, but if a municipality adopts a
3 20 self-insurance program or joins and pays funds into a
3 21 local government risk pool the action does not
3 22 constitute a waiver of the defense of governmental
3 23 immunity as to the exceptions listed in section 670.4.

3 24 3. The existence of any insurance which covers in
3 25 whole or in part any judgment or award which may be
3 26 rendered in favor of the plaintiff, or lack of any
3 27 such insurance, shall not be material in the trial of
3 28 any action brought against the governing body of a
3 29 municipality, or its officers, employees, or agents
3 30 and any reference to such insurance, or lack of
3 31 insurance, is grounds for a mistrial. A
3 32 self-insurance program or local government risk pool
3 33 is not insurance and is not subject to regulation
3 34 under chapters 505 through 523C.

3 35 4. The association of county fairs as defined in
3 36 section 174.1, or a fair, shall be deemed to be a
3 37 municipality as defined in this chapter only for the
3 38 purpose of joining a local government risk pool as
3 39 provided in this section.>

3 40 #3. Title page, line 1, by inserting after the
3 41 word <insurance> the following: <and to
3 42 self-insurance>.

3 43 #4. By renumbering, relettering, or redesignating
3 44 and correcting internal references as necessary.

3 45 SF 2337.H

3 46 jg/25